

IN THE SENATE

SENATE BILL NO. 1250

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO NURSES; AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1419, IDAHO CODE, TO ENACT THE ADVANCED PRACTICE REGISTERED NURSE COMPACT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 14, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1419, Idaho Code, and to read as follows:

54-1419. ADVANCED PRACTICE REGISTERED NURSE COMPACT. The terms and conditions of the advanced practice registered nurse compact are hereby enacted in substantially the following form:

ADVANCED PRACTICE REGISTERED NURSE COMPACT

ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

a. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse (APRN) licensure requirements and the effectiveness of enforcement activities related to state APRN licensure laws;
2. Violations of APRN licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
3. The expanded mobility of APRNs and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of APRN licensure and regulation;
4. New practice modalities and technology make compliance with individual state APRN licensure laws difficult and complex;
5. The current system of duplicative APRN licensure for APRNs practicing in multiple states is cumbersome and redundant for both APRNs and states; and
6. Uniformity of APRN licensure requirements throughout the states promotes public safety and public health benefits.

b. The general purposes of this compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety;
2. Ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;

- 1 3. Facilitate the exchange of information between party states in the
- 2 areas of APRN regulation, investigation and adverse actions;
- 3 4. Promote compliance with the laws governing APRN practice in each ju-
- 4 risdiction;
- 5 5. Invest all party states with the authority to hold an APRN account-
- 6 able for meeting all state practice laws in the state in which the pa-
- 7 tient is located at the time care is rendered through the mutual recog-
- 8 nition of party state licenses;
- 9 6. Decrease redundancies in the consideration and issuance of APRN li-
- 10 censes; and
- 11 7. Provide opportunities for interstate practice by APRNs who meet uni-
- 12 form licensure requirements.

13 ARTICLE II

14 DEFINITIONS

15 As used in this compact:

16 a. "Advanced practice registered nurse" or "APRN" means a registered
17 nurse who has gained additional specialized knowledge, skills and experi-
18 ence through a program of study recognized or defined by the interstate com-
19 mission of APRN compact administrators ("commission") and who is licensed to
20 perform advanced nursing practice. An advanced practice registered nurse is
21 licensed in an APRN role that is congruent with an APRN educational program,
22 certification and commission rules.

23 b. "Adverse action" means any administrative, civil, equitable or
24 criminal action permitted by a state's laws that is imposed by a licensing
25 board or other authority against an APRN, including actions against an in-
26 dividual's license or multistate licensure privilege such as revocation,
27 suspension, probation, monitoring of the licensee, limitation on the li-
28 censee's practice or any other encumbrance on licensure affecting an APRN's
29 authorization to practice, including the issuance of a cease and desist ac-
30 tion.

31 c. "Alternative program" means a nondisciplinary monitoring program
32 approved by a licensing board.

33 d. "APRN licensure" means the regulatory mechanism used by a party
34 state to grant legal authority to practice as an APRN.

35 e. "APRN uniform licensure requirements" means minimum uniform licen-
36 sure, education and examination requirements as adopted by the commission.

37 f. "Coordinated licensure information system" means an integrated
38 process for collecting, storing and sharing information on APRN licensure
39 and enforcement activities related to APRN licensure laws that is adminis-
40 tered by a nonprofit organization composed of and controlled by licensing
41 boards.

42 g. "Current significant investigatory information" means:

- 43 1. Investigative information that a licensing board, after a prelim-
- 44 inary inquiry that includes notification and an opportunity for the
- 45 APRN to respond, if required by state law, has reason to believe is not
- 46 groundless and, if proved true, would indicate more than a minor infrac-
- 47 tion; or

1 or other biometric-based information by APRN applicants for the purpose of
2 obtaining an applicant's criminal history record information from the fed-
3 eral bureau of investigation and the agency responsible for retaining that
4 state's criminal records.

5 b. By rule, the commission shall adopt the APRN uniform licensure re-
6 quirements ("ULRs"). The ULRs shall provide the minimum requirements for
7 APRN multistate licensure in party states, provided that the commission may
8 adopt rules whereby an APRN, with an unencumbered license on the effective
9 date of this compact, may obtain, by endorsement or otherwise, and retain a
10 multistate license in a party state.

11 c. In order to obtain or retain a multistate license, an APRN must meet,
12 in addition to the ULRs, the home state's qualifications for licensure or re-
13 newal of licensure, as well as all other applicable home state laws.

14 d. By rule, the commission shall identify the approved APRN roles and
15 population foci for licensure as an APRN. An APRN issued a multistate license
16 shall be licensed in an approved APRN role and at least one (1) approved popu-
17 lation focus.

18 e. An APRN multistate license issued by a home state to a resident in
19 that state will be recognized by each party state as authorizing the APRN to
20 practice as an APRN in each party state, under a multistate licensure priv-
21 ilege, in the same role and population focus as the APRN is licensed in the
22 home state. If an applicant does not qualify for a multistate license, a sin-
23 gle-state license may be issued by a home state.

24 f. Issuance of an APRN multistate license shall include prescriptive
25 authority for noncontrolled prescription drugs unless the APRN was licensed
26 by the home state prior to the home state's adoption of this compact and has
27 not previously held prescriptive authority.

28 1. An APRN granted prescriptive authority for noncontrolled prescrip-
29 tion drugs in the home state may exercise prescriptive authority for
30 noncontrolled prescription drugs in any remote state while exercising
31 a multistate licensure privilege under an APRN multistate license; the
32 APRN shall not be required to meet any additional eligibility require-
33 ments imposed by the remote state in exercising prescriptive authority
34 for noncontrolled prescription drugs.

35 2. Prescriptive authority in the home state for an APRN who was not
36 granted prescriptive authority at the time of initial licensure by the
37 home state, prior to the adoption of this compact, shall be determined
38 under home state law.

39 3. Prescriptive authority eligibility for an APRN holding a sin-
40 gle-state license shall be determined under the law of the licensing
41 state.

42 g. For each state in which an APRN seeks authority to prescribe con-
43 trolled substances, the APRN shall satisfy all requirements imposed by such
44 state in granting and/or renewing such authority.

45 h. An APRN issued a multistate license is authorized to assume respon-
46 sibility and accountability for patient care independent of a supervisory
47 or collaborative relationship with a physician. This authority may be exer-
48 cised in the home state and in any remote state in which the APRN exercises a
49 multistate licensure privilege. For an APRN issued a single-state license
50 in a party state, the requirement for a supervisory or collaborative rela-

1 tionship with a physician shall be determined under applicable party state
2 law.

3 i. All party states shall be authorized, in accordance with state due
4 process laws, to take adverse action against an APRN's multistate licensure
5 privilege such as revocation, suspension, probation or any other action that
6 affects an APRN's authorization to practice under a multistate licensure
7 privilege, including cease and desist actions. If a party state takes such
8 action, it shall promptly notify the administrator of the coordinated li-
9 censure information system. The administrator of the coordinated licensure
10 information system shall promptly notify the home state of any such actions
11 by remote states.

12 j. An APRN practicing in a party state must comply with the state prac-
13 tice laws of the state in which the client is located at the time service is
14 provided. APRN practice is not limited to patient care but shall include all
15 advanced nursing practice as defined by the state practice laws of the party
16 state in which the client is located. APRN practice in a party state under a
17 multistate licensure privilege will subject the APRN to the jurisdiction of
18 the licensing board, the courts, and the laws of the party state in which the
19 client is located at the time service is provided.

20 k. This compact does not affect additional requirements imposed by
21 states for advanced practice registered nursing. However, a multistate
22 licensure privilege to practice registered nursing granted by a party
23 state shall be recognized by other party states as satisfying any state law
24 requirement for registered nurse licensure as a precondition for authoriza-
25 tion to practice as an APRN in that state.

26 l. Individuals not residing in a party state shall continue to be able
27 to apply for a party state's single-state APRN license as provided under the
28 laws of each party state. However, the single-state license granted to these
29 individuals will not be recognized as granting the privilege to practice as
30 an APRN in any other party state.

31 ARTICLE IV

32 APPLICATIONS FOR APRN LICENSURE IN A PARTY STATE

33 a. Upon application for an APRN multistate license, the licensing
34 board in the issuing party state shall ascertain, through the coordinated
35 licensure information system, whether the applicant has ever held or is the
36 holder of a licensed practical/vocational nursing license, a registered
37 nursing license or an advanced practice registered nurse license issued by
38 any other state, whether there are any encumbrances on any license or multi-
39 state licensure privilege held by the applicant, whether any adverse action
40 has been taken against any license or multistate licensure privilege held
41 by the applicant and whether the applicant is currently participating in an
42 alternative program.

43 b. An APRN may hold a multistate APRN license, issued by the home state,
44 in only one (1) party state at a time.

45 c. If an APRN changes primary state of residence by moving between two
46 (2) party states, the APRN must apply for APRN licensure in the new home

1 state, and the multistate license issued by the prior home state shall be
2 deactivated in accordance with applicable commission rules.

3 1. The APRN may apply for licensure in advance of a change in primary
4 state of residence.

5 2. A multistate APRN license shall not be issued by the new home state
6 until the APRN provides satisfactory evidence of a change in primary
7 state of residence to the new home state and satisfies all applica-
8 ble requirements to obtain a multistate APRN license from the new home
9 state.

10 d. If an APRN changes primary state of residence by moving from a party
11 state to a nonparty state, the APRN multistate license issued by the prior
12 home state will convert to a single-state license, valid only in the former
13 home state.

14 ARTICLE V

15 ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

16 a. In addition to the other powers conferred by state law, a licensing
17 board shall have the authority to:

18 1. Take adverse action against an APRN's multistate licensure privi-
19 lege to practice within that party state.

20 i. Only the home state shall have power to take adverse action
21 against an APRN's license issued by the home state.

22 ii. For purposes of taking adverse action, the home state licens-
23 ing board shall give the same priority and effect to reported con-
24 duct that occurred outside of the home state as it would if such
25 conduct had occurred within the home state. In so doing, the home
26 state shall apply its own state laws to determine appropriate ac-
27 tion.

28 2. Issue cease and desist orders or impose an encumbrance on an APRN's
29 authority to practice within that party state.

30 3. Complete any pending investigations of an APRN who changes pri-
31 mary state of residence during the course of such investigations. The
32 licensing board shall also have the authority to take appropriate
33 action(s) and shall promptly report the conclusions of such investi-
34 gations to the administrator of the coordinated licensure information
35 system. The administrator of the coordinated licensure information
36 system shall promptly notify the new home state of any such actions.

37 4. Issue subpoenas for both hearings and investigations that require
38 the attendance and testimony of witnesses, as well as the production of
39 evidence. Subpoenas issued by a party state licensing board for the at-
40 tendance and testimony of witnesses and/or the production of evidence
41 from another party state shall be enforced in the latter state by any
42 court of competent jurisdiction, according to that court's practice and
43 procedure in considering subpoenas issued in its own proceedings. The
44 issuing licensing board shall pay any witness fees, travel expenses,
45 mileage and other fees required by the service statutes of the state in
46 which the witnesses and/or evidence are located.

1 5. Obtain and submit, for an APRN licensure applicant, fingerprints or
2 other biometric-based information to the federal bureau of investiga-
3 tion for criminal background checks, receive the results of the federal
4 bureau of investigation record search on criminal background checks and
5 use the results in making licensure decisions.

6 6. If otherwise permitted by state law, recover from the affected APRN
7 the costs of investigations and disposition of cases resulting from any
8 adverse action taken against that APRN.

9 7. Take adverse action based on the factual findings of another party
10 state, provided that the licensing board follows its own procedures for
11 taking such adverse action.

12 b. If adverse action is taken by a home state against an APRN's multi-
13 state licensure, the privilege to practice in all other party states under a
14 multistate licensure privilege shall be deactivated until all encumbrances
15 have been removed from the APRN's multistate license. All home state disci-
16 plinary orders that impose adverse action against an APRN's multistate li-
17 cense shall include a statement that the APRN's multistate licensure privi-
18 lege is deactivated in all party states during the pendency of the order.

19 c. Nothing in this compact shall override a party state's decision that
20 participation in an alternative program may be used in lieu of adverse ac-
21 tion. The home state licensing board shall deactivate the multistate licen-
22 sure privilege under the multistate license of any APRN for the duration of
23 the APRN's participation in an alternative program.

24 ARTICLE VI

25 COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE OF INFORMATION

26 a. All party states shall participate in a coordinated licensure infor-
27 mation system of all APRNs, licensed registered nurses and licensed practi-
28 cal/vocational nurses. This system will include information on the licen-
29 sure and disciplinary history of each APRN, as submitted by party states, to
30 assist in the coordinated administration of APRN licensure and enforcement
31 efforts.

32 b. The commission, in consultation with the administrator of the coor-
33 dinated licensure information system, shall formulate necessary and proper
34 procedures for the identification, collection and exchange of information
35 under this compact.

36 c. All licensing boards shall promptly report to the coordinated licen-
37 sure information system any adverse action, any current significant inves-
38 tigative information, denials of applications (with the reasons for such de-
39 nials) and APRN participation in alternative programs known to the licensing
40 board regardless of whether such participation is deemed nonpublic and/or
41 confidential under state law.

42 d. Current significant investigative information and participation in
43 nonpublic or confidential alternative programs shall be transmitted through
44 the coordinated licensure information system only to party state licensing
45 boards.

46 e. Notwithstanding any other provision of law, all party state licens-
47 ing boards contributing information to the coordinated licensure informa-

1 tion system may designate information that may not be shared with nonparty
 2 states or disclosed to other entities or individuals without the express
 3 permission of the contributing state.

4 f. Any personally identifiable information obtained from the coordi-
 5 nated licensure information system by a party state licensing board shall
 6 not be shared with nonparty states or disclosed to other entities or individ-
 7 uals except to the extent permitted by the laws of the party state contribut-
 8 ing the information.

9 g. Any information contributed to the coordinated licensure informa-
 10 tion system that is subsequently required to be expunged by the laws of the
 11 party state contributing the information shall be removed from the coordi-
 12 nated licensure information system.

13 h. The compact administrator of each party state shall furnish a uni-
 14 form data set to the compact administrator of each other party state, which
 15 shall include, at a minimum:

- 16 1. Identifying information;
- 17 2. Licensure data;
- 18 3. Information related to alternative program participation informa-
 19 tion; and
- 20 4. Other information that may facilitate the administration of this
 21 compact, as determined by commission rules.

22 i. The compact administrator of a party state shall provide all inves-
 23 tigative documents and information requested by another party state.

24 ARTICLE VII

25 ESTABLISHMENT OF THE INTERSTATE COMMISSION OF APRN COMPACT ADMINISTRATORS

26 a. The party states hereby create and establish a joint public agency
 27 known as the interstate commission of APRN compact administrators.

- 28 1. The commission is an instrumentality of the party states.
- 29 2. Venue is proper, and judicial proceedings by or against the commis-
 30 sion shall be brought solely and exclusively, in a court of competent
 31 jurisdiction where the principal office of the commission is located.
 32 The commission may waive venue and jurisdictional defenses to the ex-
 33 tent it adopts or consents to participate in alternative dispute reso-
 34 lution proceedings.
- 35 3. Nothing in this compact shall be construed to be a waiver of
 36 sovereign immunity.

37 b. Membership, voting and meetings.

38 1. Each party state shall have and be limited to one (1) administrator.
 39 The head of the state licensing board or designee shall be the adminis-
 40 trator of this compact for each party state. Any administrator may be
 41 removed or suspended from office as provided by the law of the state from
 42 which the administrator is appointed. Any vacancy occurring in the com-
 43 mission shall be filled in accordance with the laws of the party state in
 44 which the vacancy exists.

45 2. Each administrator shall be entitled to one (1) vote with regard to
 46 the promulgation of rules and creation of bylaws and shall otherwise
 47 have an opportunity to participate in the business and affairs of the

1 commission. An administrator shall vote in person or by such other
2 means as provided in the bylaws. The bylaws may provide for an admin-
3 istrator's participation in meetings by telephone or other means of
4 communication.

5 3. The commission shall meet at least once during each calendar year.
6 Additional meetings shall be held as set forth in the bylaws or rules of
7 the commission.

8 4. All meetings shall be open to the public, and public notice of meet-
9 ings shall be given in the same manner as required under the rulemaking
10 provisions in article VIII of this compact.

11 5. The commission may convene in a closed, nonpublic meeting if the com-
12 mission must discuss:

13 i. Noncompliance of a party state with its obligations under this
14 compact;

15 ii. The employment, compensation, discipline or other personnel
16 matters, practices or procedures related to specific employees
17 or other matters related to the commission's internal personnel
18 practices and procedures;

19 iii. Current, threatened or reasonably anticipated litigation;

20 iv. Negotiation of contracts for the purchase or sale of goods,
21 services or real estate;

22 v. Accusing any person of a crime or formally censuring any per-
23 son;

24 vi. Disclosure of trade secrets or commercial or financial infor-
25 mation that is privileged or confidential;

26 vii. Disclosure of information of a personal nature where disclo-
27 sure would constitute a clearly unwarranted invasion of personal
28 privacy;

29 viii. Disclosure of investigatory records compiled for law en-
30 forcement purposes;

31 ix. Disclosure of information related to any reports prepared by
32 or on behalf of the commission for the purpose of investigation of
33 compliance with this compact; or

34 x. Matters specifically exempted from disclosure by federal or
35 state statute.

36 6. If a meeting, or portion of a meeting, is closed pursuant to this pro-
37 vision, the commission's legal counsel or designee shall certify that
38 the meeting may be closed and shall reference each relevant exempting
39 provision. The commission shall keep minutes that fully and clearly de-
40 scribe all matters discussed in a meeting and shall provide a full and
41 accurate summary of actions taken, and the reasons therefor, including
42 a description of the views expressed. All documents considered in con-
43 nection with an action shall be identified in such minutes. All minutes
44 and documents of a closed meeting shall remain under seal, subject to
45 release by a majority vote of the commission or order of a court of com-
46 petent jurisdiction.

47 c. The commission shall, by a majority vote of the administrators, pre-
48 scribe bylaws or rules to govern its conduct as may be necessary or appropri-
49 ate to carry out the purposes and exercise the powers of this compact includ-
50 ing, but not limited to:

- 1 1. Establishing the fiscal year of the commission;
- 2 2. Providing reasonable standards and procedures:
 - 3 i. For the establishment and meetings of other committees; and
 - 4 ii. Governing any general or specific delegation of any authority
 - 5 or function of the commission.
- 6 3. Providing reasonable procedures for calling and conducting meetings
- 7 of the commission, ensuring reasonable advance notice of all meetings
- 8 and providing an opportunity for attendance of such meetings by inter-
- 9 ested parties, with enumerated exceptions designed to protect the pub-
- 10 lic's interest, the privacy of individuals, and proprietary informa-
- 11 tion, including trade secrets. The commission may meet in closed ses-
- 12 sion only after a majority of the administrators vote to close a meeting
- 13 in whole or in part. As soon as practicable, the commission must make
- 14 public a copy of the vote to close the meeting revealing the vote of each
- 15 administrator, with no proxy votes allowed;
- 16 4. Establishing the titles, duties and authority and reasonable proce-
- 17 dures for the election of the officers of the commission;
- 18 5. Providing reasonable standards and procedures for the establishment
- 19 of the personnel policies and programs of the commission. Notwith-
- 20 standing any civil service or other similar laws of any party state, the
- 21 bylaws shall exclusively govern the personnel policies and programs of
- 22 the commission;
- 23 6. Providing a mechanism for winding up the operations of the commis-
- 24 sion and the equitable disposition of any surplus funds that may exist
- 25 after the termination of this compact after the payment and/or reserv-
- 26 ing of all of its debts and obligations;
- 27 d. The commission shall publish its bylaws and rules, and any amend-
- 28 ments thereto, in a convenient form on the website of the commission;
- 29 e. The commission shall maintain its financial records in accordance
- 30 with the bylaws; and
- 31 f. The commission shall meet and take such actions as are consistent
- 32 with the provisions of this compact and the bylaws.
- 33 g. The commission shall have the following powers:
 - 34 1. To promulgate uniform rules to facilitate and coordinate implemen-
 - 35 tation and administration of this compact. The rules shall have the
 - 36 force and effect of law and shall be binding in all party states;
 - 37 2. To bring and prosecute legal proceedings or actions in the name of
 - 38 the commission, provided that the standing of any licensing board to sue
 - 39 or be sued under applicable law shall not be affected;
 - 40 3. To purchase and maintain insurance and bonds;
 - 41 4. To borrow, accept or contract for services of personnel including,
 - 42 but not limited to, employees of a party state or nonprofit organiza-
 - 43 tions;
 - 44 5. To cooperate with other organizations that administer state com-
 - 45 pacts related to the regulation of nursing including, but not limited
 - 46 to, sharing administrative or staff expenses, office space or other
 - 47 resources;
 - 48 6. To hire employees, elect or appoint officers, fix compensation, de-
 - 49 fine duties, grant such individuals appropriate authority to carry out
 - 50 the purposes of this compact, and to establish the commission's person-

1 nel policies and programs relating to conflicts of interest, qualifica-
2 tions of personnel and other related personnel matters;

3 7. To accept any and all appropriate donations, grants and gifts of
4 money, equipment, supplies, materials and services, and to receive,
5 utilize and dispose of the same; provided that at all times the com-
6 mission shall strive to avoid any appearance of impropriety and/or
7 conflict of interest;

8 8. To lease, purchase, accept appropriate gifts or donations of, or
9 otherwise to own, hold, improve or use, any property, whether real, per-
10 sonal or mixed; provided that at all times the commission shall strive
11 to avoid any appearance of impropriety;

12 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or oth-
13 erwise dispose of any property, whether real, personal or mixed;

14 10. To establish a budget and make expenditures;

15 11. To borrow money;

16 12. To appoint committees, including advisory committees comprised of
17 administrators, state nursing regulators, state legislators or their
18 representatives, and consumer representatives, and other such inter-
19 ested persons;

20 13. To provide and receive information from, and to cooperate with, law
21 enforcement agencies;

22 14. To adopt and use an official seal; and

23 15. To perform such other functions as may be necessary or appropriate
24 to achieve the purposes of this compact consistent with the state regu-
25 lation of APRN licensure and practice.

26 h. Financing of the commission.

27 1. The commission shall pay, or provide for the payment of, the rea-
28 sonable expenses of its establishment, organization and ongoing activ-
29 ities.

30 2. The commission may levy on and collect an annual assessment from each
31 party state to cover the cost of the operations and activities of the in-
32 terstate commission and its staff which must be in a total amount suf-
33 ficient to cover its annual budget as approved each year. The aggre-
34 gate annual assessment amount shall be allocated based upon a formula to
35 be determined by the commission, which shall promulgate a rule that is
36 binding upon all party states.

37 3. The commission shall not incur obligations of any kind prior to se-
38 curing the funds adequate to meet the same; nor shall the commission
39 pledge the credit of any of the party states, except by, and with the
40 authority of, such party state.

41 4. The commission shall keep accurate accounts of all receipts and dis-
42 bursements. The receipts and disbursements of the commission shall be
43 subject to the audit and accounting procedures established under its
44 bylaws. However, all receipts and disbursements of funds handled by the
45 commission shall be audited yearly by a certified or licensed public
46 accountant, and the report of the audit shall be included in and become
47 part of the annual report of the commission.

48 i. Qualified immunity, defense and indemnification.

49 1. The administrators, officers, executive director, employees and
50 representatives of the commission shall be immune from suit and lia-

1 bility, either personally or in their official capacity, for any claim
2 for damage to or loss of property or personal injury or other civil li-
3 ability caused by or arising out of any actual or alleged act, error or
4 omission that occurred, or that the person against whom the claim is
5 made had a reasonable basis for believing occurred, within the scope of
6 commission employment, duties or responsibilities; provided that noth-
7 ing in this paragraph shall be construed to protect any such person from
8 suit and/or liability for any damage, loss, injury or liability caused
9 by the intentional, willful or wanton misconduct of that person.

10 2. The commission shall defend any administrator, officer, executive
11 director, employee or representative of the commission in any civil
12 action seeking to impose liability arising out of any actual or alleged
13 act, error or omission that occurred within the scope of commission em-
14 ployment, duties or responsibilities, or that the person against whom
15 the claim is made had a reasonable basis for believing occurred within
16 the scope of commission employment, duties or responsibilities; pro-
17 vided that nothing herein shall be construed to prohibit that person
18 from retaining his or her own counsel; and provided further that the ac-
19 tual or alleged act, error or omission did not result from that person's
20 intentional, willful or wanton misconduct.

21 3. The commission shall indemnify and hold harmless any administrator,
22 officer, executive director, employee or representative of the commis-
23 sion for the amount of any settlement or judgment obtained against that
24 person arising out of any actual or alleged act, error or omission that
25 occurred within the scope of commission employment, duties or responsi-
26 bilities, or that such person had a reasonable basis for believing oc-
27 curred within the scope of commission employment, duties or responsi-
28 bilities, provided that the actual or alleged act, error or omission did
29 not result from the intentional, willful or wanton misconduct of that
30 person.

31 ARTICLE VIII

32 RULEMAKING

33 a. The commission shall exercise its rulemaking powers pursuant to the
34 criteria set forth in this article and the rules adopted thereunder. Rules
35 and amendments shall become binding as of the date specified in each rule or
36 amendment and shall have the same force and effect as provisions of this com-
37 pact.

38 b. Rules or amendments to the rules shall be adopted at a regular or spe-
39 cial meeting of the commission.

40 c. Prior to promulgation and adoption of a final rule or rules by the
41 commission, and at least sixty (60) days in advance of the meeting at which
42 the rule will be considered and voted upon, the commission shall file a no-
43 tice of proposed rulemaking:

44 1. On the website of the commission; and

45 2. On the website of each licensing board or the publication in which
46 each state would otherwise publish proposed rules.

47 d. The notice of proposed rulemaking shall include:

1 1. The proposed time, date and location of the meeting in which the rule
2 will be considered and voted upon;

3 2. The text of the proposed rule or amendment, and the reason for the
4 proposed rule;

5 3. A request for comments on the proposed rule from any interested per-
6 son; and

7 4. The manner in which interested persons may submit notice to the com-
8 mission of their intention to attend the public hearing and any written
9 comments.

10 e. Prior to adoption of a proposed rule, the commission shall allow per-
11 sons to submit written data, facts, opinions and arguments, which shall be
12 made available to the public.

13 f. The commission shall grant an opportunity for a public hearing be-
14 fore it adopts a rule or amendment.

15 g. The commission shall publish the place, time and date of the sched-
16 uled public hearing.

17 1. Hearings shall be conducted in a manner providing each person who
18 wishes to comment a fair and reasonable opportunity to comment orally
19 or in writing. All hearings will be recorded, and a copy will be made
20 available upon request.

21 2. Nothing in this section shall be construed as requiring a separate
22 hearing on each rule. Rules may be grouped for the convenience of the
23 commission at hearings required by this section.

24 h. If no one appears at the public hearing, the commission may proceed
25 with promulgation of the proposed rule.

26 i. Following the scheduled hearing date, or by the close of business on
27 the scheduled hearing date if the hearing was not held, the commission shall
28 consider all written and oral comments received.

29 j. The commission shall, by majority vote of all administrators, take
30 final action on the proposed rule and shall determine the effective date of
31 the rule, if any, based on the rulemaking record and the full text of the
32 rule.

33 k. Upon determination that an emergency exists, the commission may con-
34 sider and adopt an emergency rule without prior notice, opportunity for com-
35 ment, or hearing, provided that the usual rulemaking procedures provided in
36 this compact and in this section shall be retroactively applied to the rule
37 as soon as reasonably possible, in no event later than ninety (90) days after
38 the effective date of the rule. For the purposes of this provision, an emer-
39 gency rule is one that must be adopted immediately in order to:

40 1. Meet an imminent threat to public health, safety or welfare;

41 2. Prevent a loss of commission or party state funds; or

42 3. Meet a deadline for the promulgation of an administrative rule that
43 is established by federal law or rule.

44 1. The commission may direct revisions to a previously adopted rule or
45 amendment for purposes of correcting typographical errors, errors in for-
46 mat, errors in consistency or grammatical errors. Public notice of any re-
47 visions shall be posted on the website of the commission. The revision shall
48 be subject to challenge by any person for a period of thirty (30) days after
49 posting. The revision may be challenged only on grounds that the revision
50 results in a material change to a rule. A challenge shall be made in writing

1 and delivered to the commission prior to the end of the notice period. If no
2 challenge is made, the revision will take effect without further action. If
3 the revision is challenged, the revision may not take effect without the ap-
4 proval of the commission.

5 ARTICLE IX

6 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

7 a. Oversight.

8 1. Each party state shall enforce this compact and take all actions
9 necessary and appropriate to effectuate this compact's purposes and
10 intent.

11 2. The commission shall be entitled to receive service of process in any
12 proceeding that may affect the powers, responsibilities or actions of
13 the commission and shall have standing to intervene in such a proceed-
14 ing for all purposes. Failure to provide service of process to the com-
15 mission shall render a judgment or order void as to the commission, this
16 compact or promulgated rules.

17 b. Default, technical assistance and termination.

18 1. If the commission determines that a party state has defaulted in the
19 performance of its obligations or responsibilities under this compact
20 or the promulgated rules, the commission shall:

21 i. Provide written notice to the defaulting state and other party
22 states of the nature of the default, the proposed means of curing
23 the default and/or any other action to be taken by the commission;
24 and

25 ii. Provide remedial training and specific technical assistance
26 regarding the default.

27 2. If a state in default fails to cure the default, the defaulting
28 state's membership in this compact may be terminated upon an affirma-
29 tive vote of a majority of the administrators, and all rights, privi-
30 leges and benefits conferred by this compact may be terminated on the
31 effective date of termination. A cure of the default does not relieve
32 the offending state of obligations or liabilities incurred during the
33 period of default.

34 3. Termination of membership in this compact shall be imposed only af-
35 ter all other means of securing compliance have been exhausted. Notice
36 of intent to suspend or terminate shall be given by the commission to
37 the governor of the defaulting state and to the executive officer of the
38 defaulting state's licensing board, the defaulting state's licensing
39 board, and each of the party states.

40 4. A state whose membership in this compact has been terminated is re-
41 sponsible for all assessments, obligations and liabilities incurred
42 through the effective date of termination, including obligations that
43 extend beyond the effective date of termination.

44 5. The commission shall not bear any costs related to a state that is
45 found to be in default or whose membership in this compact has been ter-
46 minated, unless agreed upon in writing between the commission and the
47 defaulting state.

1 6. The defaulting state may appeal the action of the commission by peti-
2 tioning the United States district court for the District of Columbia or
3 the federal district in which the commission has its principal offices.
4 The prevailing party shall be awarded all costs of such litigation, in-
5 cluding reasonable attorneys' fees.

6 c. Dispute resolution.

7 1. Upon request by a party state, the commission shall attempt to re-
8 solve disputes related to the compact that arise among party states and
9 between party and nonparty states.

10 2. The commission shall promulgate a rule providing for both mediation
11 and binding dispute resolution for disputes, as appropriate.

12 3. In the event the commission cannot resolve disputes among party
13 states arising under this compact:

14 i. The party states may submit the issues in dispute to an arbi-
15 tration panel, which will be comprised of individuals appointed by
16 the compact administrator in each of the affected party states and
17 an individual mutually agreed upon by the compact administrators
18 of all the party states involved in the dispute.

19 ii. The decision of a majority of the arbitrators shall be final
20 and binding.

21 d. Enforcement.

22 1. The commission, in the reasonable exercise of its discretion, shall
23 enforce the provisions and rules of this compact.

24 2. By majority vote, the commission may initiate legal action in the
25 United States district court for the District of Columbia or the fed-
26 eral district in which the commission has its principal offices against
27 a party state that is in default to enforce compliance with the provi-
28 sions of this compact and its promulgated rules and bylaws. The relief
29 sought may include both injunctive relief and damages. In the event ju-
30 dicial enforcement is necessary, the prevailing party shall be awarded
31 all costs of such litigation, including reasonable attorneys' fees.

32 3. The remedies herein shall not be the exclusive remedies of the com-
33 mission. The commission may pursue any other remedies available under
34 federal or state law.

35 ARTICLE X

36 EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

37 a. This compact shall come into limited effect at such time as this com-
38 pact has been enacted into law in ten (10) party states for the sole purpose
39 of establishing and convening the commission to adopt rules relating to its
40 operation and the APRN ULRs.

41 b. On the date of the commission's adoption of the APRN ULRs, all re-
42 maining provisions of this compact and rules adopted by the commission shall
43 come into full force and effect in all party states.

44 c. Any state that joins this compact subsequent to the commission's
45 initial adoption of the APRN uniform licensure requirements shall be subject
46 to all rules that have been previously adopted by the commission.

1 d. Any party state may withdraw from this compact by enacting a statute
2 repealing the same. A party state's withdrawal shall not take effect until
3 six (6) months after enactment of the repealing statute.

4 e. A party state's withdrawal or termination shall not affect the
5 continuing requirement of the withdrawing or terminated state's licensing
6 board to report adverse actions and significant investigations occurring
7 prior to the effective date of such withdrawal or termination.

8 f. Nothing contained in this compact shall be construed to invalidate
9 or prevent any APRN licensure agreement or other cooperative arrangement be-
10 tween a party state and a nonparty state that does not conflict with the pro-
11 visions of this compact.

12 g. This compact may be amended by the party states. No amendment to this
13 compact shall become effective and binding upon any party state until it is
14 enacted into the laws of all party states.

15 h. Representatives of nonparty states to this compact shall be invited
16 to participate in the activities of the commission, on a nonvoting basis,
17 prior to the adoption of this compact by all states.

18 ARTICLE XI

19 CONSTRUCTION AND SEVERABILITY

20 This compact shall be liberally construed so as to effectuate the purposes
21 thereof. The provisions of this compact shall be severable, and if any
22 phrase, clause, sentence or provision of this compact is declared to be con-
23 trary to the constitution of any party state or of the United States, or if
24 the applicability thereof to any government, agency, person or circumstance
25 is held invalid, the validity of the remainder of this compact and the ap-
26 plicability thereof to any government, agency, person or circumstance shall
27 not be affected thereby. If this compact shall be held to be contrary to the
28 constitution of any party state, this compact shall remain in full force and
29 effect as to the remaining party states and in full force and effect as to the
30 party state affected as to all severable matters.